

### REMARKS/ARGUMENTS

Claims 11, 13-17, and 19-22 are pending in this application. By this Amendment, Applicant AMENDS claims 11, 13-15, 17, and 20 and CANCELS claims 12 and 18.

Applicant appreciates the Examiner extending the courtesy of the telephone interview on April 22, 2009. During the telephone interview, Applicant's representative proposed amendments to claims 11 and 17 to clarify the relationship between the mounting plate and the cylindrical pump to distinguish from the fuel pump assemblies of Ootaka et al. (U.S. 6,679,292), Suzuki et al. (JP 2003-74436) (Applicant notes that the Office Action refers to the second named inventor Torikai rather than the first named inventor Suzuki), and Kobayashi et al. (U.S. 6,655,363). Applicant's representative also proposed amendments to claim 15 to overcome the rejection under 35 U.S.C. § 112, second paragraph.

Claim 18 was objected to for allegedly containing a minor informality. Claim 18 has been canceled. Accordingly, Applicant respectfully submits that the objection to claim 18 is moot.

Claims 21 and 22 were objected to under 37 CFR § 1.75(c) for allegedly failing to further limit the subject matter of a previous claim. The Examiner alleged that claims 21 and 22 recite a vehicle including the vehicle engine, fuel pump assembly, and fuel tank recited in claims 11 and 17, respectively, which are inherent features of a vehicle. Applicant respectfully submits that each of claims 21 and 22 are proper dependent claims as each of claims 21 and 22 properly include all of the features recited in parent claims 11 and 17, respectively. See M.P.E.P. § 608.01(n), III Infringement Test for the appropriate test of what constitutes a proper dependent claim.

Claim 15 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The Examiner alleged that it was unclear how the fuel passage is arranged to overlap itself. Applicant has amended claim 15 to more clearly recite the arrangement of the fuel passage. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 15 under 35 U.S.C. § 112, second paragraph.

Claims 11, 15-19, 21, and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ootaka et al. in view of Suzuki et al. Claims 12-14 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ootaka et al. and Suzuki et al. in view of Kobayashi et al.

Claims 12 and 18 have been canceled and the features recited therein incorporated into claims 11 and 17, respectively. Applicant respectfully traverses the rejections of claims 11, 13-17, and 19-22.

Claim 11 has been amended to recite:

A mounting structure for a fuel pump of a vehicle engine, the mounting structure comprising:

a fuel pump assembly including a cylindrical pump body and a filter coupled with a suction end of the pump body;

a fuel tank arranged to straddle a body frame of a vehicle;

a housing enclosing the cylindrical pump body, a flange section of the housing arranged to abut an outside area surrounding an opening in the fuel tank; and

a mounting plate arranged to cover the flange section on an outside of the fuel tank, the fuel pump assembly arranged to be fixed to the opening through the mounting plate and the flange section; wherein

an axis of the cylindrical pump body extends generally parallel to a mounting surface of the mounting plate;

the cylindrical pump body and the filter are arranged to overlap each other in a plan view of the vehicle;

**the opening is arranged in a side wall surface of the fuel tank, the mounting plate is attached to the opening of the side wall surface of the fuel tank; and**

**the mounting plate and the cylindrical pump at least partially overlap each other in a lateral side view of the vehicle.** (emphasis added)

With the unique combination and arrangement of features recited in Applicant's claim 11, and similarly claim 17, including the features of "the opening is arranged in a side wall surface of the fuel tank, the mounting plate is attached to the opening of the side wall surface of the fuel tank" and "the mounting plate and the cylindrical pump at least partially overlap each other in a lateral side view of the vehicle," Applicant has been able to provide a fuel pump mounting structure for a vehicle engine wherein a fuel

pump is disposed at a surface of a fuel tank so as to decrease a moment against the mounting plate, to reliably support the fuel pump under a stable condition without requiring a large and rigid construction, and to improve a sealing function (see, for example, paragraph [0006] of Applicant's substitute specification).

The Examiner alleged that Ootaka et al. teaches a fuel pump assembly 20, a housing 22 enclosing the fuel pump assembly, and a mounting plate 40 arranged to cover a flange section of the housing. The Examiner acknowledged that Ootaka et al. does not teach a filter or that the cylindrical pump body extends generally parallel to a mounting surface of the mounting plate, but alleged that Suzuki et al. teaches a cylindrical pump body P having a filter F such that the cylindrical pump body P extends generally parallel to a mounting surface T and arranged to overlap the filter F. With respect to now canceled claim 12, the features of which have been incorporated into claim 11, the Examiner alleged that Kobayashi et al. teaches an opening arranged in a side wall surface of the fuel tank. The Examiner further alleged that it would have been obvious to provide the fuel pump assembly of Ootaka et al. with the pump body and filter of Suzuki et al. "in order to reduce the necessary width of the opening in the fuel tank" and to "modify the mounting structure taught by Ootaka et al. to accommodate a saddle type fuel tank [as taught by Kobayashi et al.] in order to save manufacturing costs by using a single fuel pump assembly for a variety of vehicle styles."

Applicant has amended claim 11, and similarly claim 17, to recite the features of "the opening is arranged in a side wall surface of the fuel tank, the mounting plate is attached to the opening of the side wall surface of the fuel tank" and "the mounting plate and the cylindrical pump at least partially overlap each other in a lateral side view of the vehicle." Support for these features is found, for example, in previously presented claims 12 and 18, paragraph [0033] of Applicant's substitute specification, and Figs. 1 and 2 of Applicant's drawings.

In contrast, Ootaka et al. teaches a fuel pump assembly 20 and a mounting plate 40 that overlap in a plan view of the vehicle, not a lateral side view of the vehicle (see, for example, column 3, lines 56-67 and Figs. 1 and 2 of Ootaka et al. which show that

the pump assembly 20, and thus the cylindrical pump body, is arranged directly above the mounting plate 40).

Suzuki et al. teaches a fuel pump assembly wherein a pump body P and a mounting plate 1 also overlap in a plan view of the vehicle, not a lateral side view of the vehicle (see, for example, Fig. 1 and paragraph [0016], lines 6-8 of Suzuki et al. which teach that the opening for the fuel pump assembly is formed in a top side of the fuel tank).

Kobayashi et al. teaches a fuel pump body 16 arranged well behind the mounting plate 14 in a longitudinal direction of the vehicle (see, for example, Fig. 3 of Kobayashi et al.). Thus, the pump body 16 of Kobayashi et al. clearly does not overlap the mounting plate 14 in a lateral side view of the vehicle.

Thus, the combination of Ootaka et al., Suzuki et al., and Kobayashi et al. fails to teach or suggest the features of “the opening is arranged in a side wall surface of the fuel tank, the mounting plate is attached to the opening of the side wall surface of the fuel tank” and “the mounting plate and the cylindrical pump at least partially overlap each other in a lateral side view of the vehicle,” as recited in Applicant’s claim 11, and similarly Applicant’s claim 17.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 11 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Ootaka et al. in view of Suzuki et al. Furthermore, Applicant respectfully submits that any rejection of claims 11 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Ootaka et al. in view of Suzuki et al. and Kobayashi et al. would be improper for at least the reasons discussed above.

Accordingly, Applicant respectfully submits that Ootaka et al., Suzuki et al., and Kobayashi et al., applied alone or in combination, fail to teach or suggest the unique combination and arrangement of elements recited in Applicant’s claims 11 and 17.

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 11 and 17 are allowable. Claims 13-16 and 19-22 depend upon claims 11 and 17, and are therefore allowable for at least the reasons that claims 11 and 17 are

allowable.

In view of the foregoing amendments and remarks, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance are solicited.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,

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